

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ARMED FORCES BANK, N.A.,

Plaintiff,

v.

STEPHEN J. COLLIAS,
GARY L. HALL, and Gary L. Hall as
Trustee of the GARY L. HALL
REVOCABLE TRUST

Defendants.

No. 4:10-CV-00460-DGK

ORDER

Now before the Court is Plaintiff's Motion to Reconsider Orders Granting Defendants Extensions of Time to Answer Complaint (doc. 31) and Plaintiff's Motion for Order to Establish Rule 16(b) Scheduling Order Deadline (doc. 32).

The procedural background of this case is as follows: Plaintiff filed suit on May 4, 2010 for claims on debts Defendants guaranteed on behalf of Franklin Pacific Finance, LLP. Franklin defaulted on the debts, and then on May 24, 2010 filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the Central Division of California. This Court has given Defendants five extensions of time, the first few with Plaintiff's consent, to answer or otherwise respond to the Complaint. The Court did so on the understanding that resolution of Franklin's Chapter 11 Plan would settle this dispute, thus obviating the need to litigate this case. The most recent extension was given because Defendants indicated that after May 2, 2011, the effective date of the Chapter 11 Plan, certain payments would be made to Plaintiff which would facilitate dismissal of this action.

On April 7, 2011, the bankruptcy court confirmed the Chapter 11 Plan, and it took effect May 2, 2011. Plaintiff alleges that as of May 6, 2011, neither Franklin nor the Defendants have complied with the Plan, and Defendants remain significantly indebted to Plaintiff under the guarantees. Plaintiff contends that Defendants are essentially stalling, and now moves the Court to (1) reconsider its last order granting Defendants an extension of time to June 3, 2011 to answer or otherwise respond to the Complaint, and (2) set a Rule 16(b) deadline

It is unclear to the Court whether Plaintiff's allegations are true or not, but what is clear is that this case has not been resolved, a year has passed without any answer being filed or scheduling order being issued, and that it is time for this litigation to move forward. Accordingly, Plaintiff's motions are GRANTED.

1. Defendants shall answer or otherwise respond to the Complaint on or before May 25, 2011. No additional extensions of time will be given. Failure to answer or otherwise respond will result in default.

2. Contemporaneously with this order the Court is issuing an order setting deadlines for the parties to hold a Rule 26(f) conference and file a joint proposed scheduling order. No extension of time will be given to these deadlines. The parties should plan accordingly.

IT IS SO ORDERED.

DATE: May 18, 2011

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT